

ORDINANCE AMENDMENT REVIEW SHEET

Amendment: C20-2023-015 Eliminate NPA Filing Deadlines

Description: Amending Article 16: Neighborhood Plan Amendment ordinance to remove the February and July open filing period and also remove ancillary sections referring to this restriction in the ordinance. See text below and attached map.

§ 25-1-811 - MAP; FILING DATES.

The director shall establish a map designating the area of the City for which an application to amend a neighborhood plan must be submitted in February and the area for which an application must be submitted in July.

Proposed Language: See attached red-lined draft ordinance.

Summary of Proposed Code Amendment:

Amending Article 16: Neighborhood Plan Amendment ordinance to remove the February and July open filing period.

Background: Article 16: Neighborhood Plan Amendment ordinance has a provision where plan amendment applications can only be filed during the month of February for neighborhood planning areas on the west side of IH-35 and during the month of July for neighborhood planning areas on the east side of IH-35. There are exceptions provided in the ordinance for applications to be filed outside of the February and July open filing periods. This code amendment is in response to City Council [Resolution No. 20230601-047](#) which initiated amendments to allow neighborhood plan amendments to be filed at any time.

Staff Recommendation: Staff supports the proposed change to remove the February and July open filing period

Board and Commission Actions:

- July 19, 2023 – Codes and Ordinances Joint Committee approved unanimously
- August 8, 2023 – scheduled for Planning Commission

Council Action:

- City Council Initiation – June 1st, 2023
- City Council Set the Public Hearing – July 20th, 2023
- City Council Conduct Public Hearing – August 31st, 2023

City Staff: Maureen Meredith, Senior Planner, Planning Department

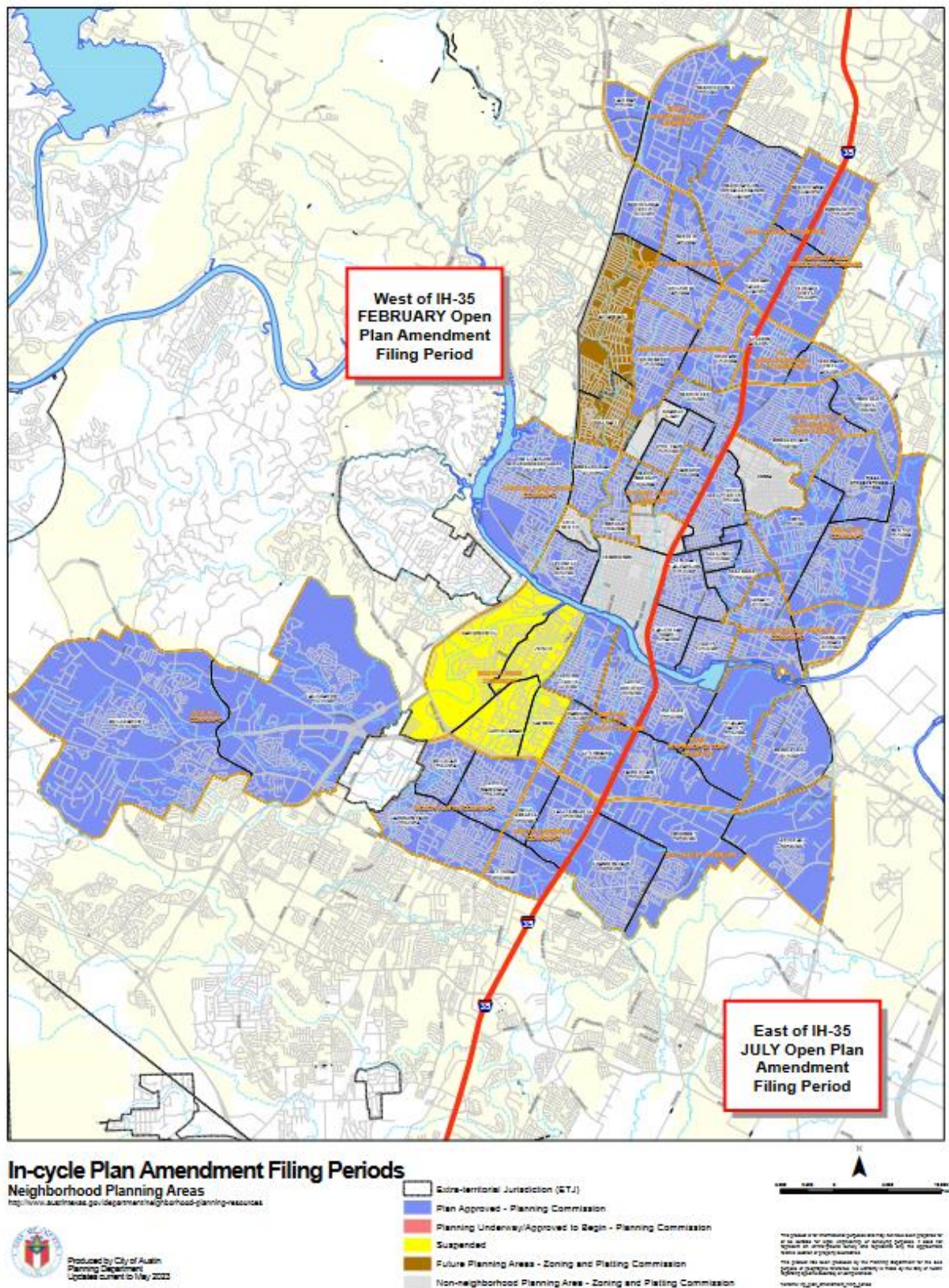
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**HOUSING &
PLANNING**
Affordability Impact Statement
C20-2023-015 Eliminate NPA Filing Deadlines
Initiated by Resolution No. 20230601-047
8/2/2023
Proposed Regulation

The proposed change amends Article 16 to remove the February and July open filing period for Neighborhood Plan amendments and remove ancillary sections referring to this restriction.

☒ Positive ☐ Negative ☐ Neutral

The proposed change to remove the February and July open filing period and allow neighborhood plan amendments to be filed at any time will positively impact housing costs by reducing the wait time for review and approval of neighborhood plan amendments and subsequent zoning changes for residential development.

Restricting the filing period to only February and July for plan amendment applications impacts the timeline for associated zoning cases for properties proposed to be rezoned, in many cases, to build new housing.

The following chart shows the 182 future land use plan amendments that have been approved over the last five years. More than 75% of the amendments have been for residential land uses.

**Land Use/Zoning Impacts
on Housing Costs**

Future Land Use	# of FLUM Amendments 2018-Present
Mixed Use	92
Multi-family	26
Higher-Density Single Family	19
Mixed Use/Office	12
Neighborhood Mixed Use	12
Commercial	7
Major Planned Development	4
Mixed-use Activity Hub/Corridor	2
Single Family	2
Specific Regulating District	2
Commerce	1
High Density Mixed Use	1
Office	1
Total	182

☒ Positive ☐ Negative ☐ Neutral

**Impact on Development
Cost**

The proposed change to remove the specific filing periods in February and July for neighborhood plan amendments and allow year-round applications will have a positive impact on development costs. By streamlining the process, it will likely reduce the wait time for application reviews and approvals, minimizing potential costs like interest payments on pending land.

☒ Positive ☐ Negative ☐ Neutral**Impact on Affordable
Housing**

Out of the 182 future land use plan amendments in the last five years, 19 (or 10%) were associated with a zoning request for the Vertical Mixed Use (VMU) combining district. VMU is a density bonus program that requires the allocation of at least 10-12% of affordable housing units. The proposed change to open the filing period will streamline the process of submitting Neighborhood Plan Amendments and shorten the wait time for reviewing and approving zoning changes, which sometimes include an affordable housing component.

Manager's Signature Marla Torrado

TITLE 25. - LAND DEVELOPMENT.
CHAPTER 25-1. - GENERAL REQUIREMENTS AND PROCEDURES.
ARTICLE 16. NEIGHBORHOOD PLAN AMENDMENTS.

ARTICLE 16. NEIGHBORHOOD PLAN AMENDMENTS.

§ 25-1-801 DEFINITIONS.

In this article:

- (1) DIRECTOR means the director of the Planning and Development Review Department.
- (2) NEIGHBORHOOD PLAN CONTACT TEAM means the individuals designated to implement an adopted neighborhood plan. The neighborhood plan contact team is a neighborhood organization that qualifies as an interested party for purposes of notice, appeal, and other processes if all other qualifications for interested party status are satisfied. The neighborhood plan contact team is a separate body apart from any other existing or future neighborhood organization.

Source: Ord. 20080306-073; Ord. 20091105-069; 20091217-053.

§ 25-1-802 DIRECTOR'S REVIEW OF NEIGHBORHOOD PLAN.

The director shall conduct a general review of a neighborhood plan not earlier than five years after the adoption of the plan and may recommend amendments of a plan to the Planning Commission and council. The director shall include neighborhood stakeholder input in the review process.

Source: Ord. 20080306-073.

§ 25-1-803 INITIATION OF NEIGHBORHOOD PLAN AMENDMENT.

A neighborhood plan amendment may be initiated by:

- (1) for an amendment regarding an individual property:
 - (a) the owner of the subject property;
 - (b) the council;
 - (c) the Planning Commission;
 - (d) the director;
 - (e) the neighborhood plan contact team for the planning area in which the property is located; or
- (2) for an amendment regarding an area-wide or subdistrict-wide recommendation:
 - (a) the council;
 - (b) the Planning Commission;
 - (c) the director; or
 - (d) the neighborhood plan contact team for the affected neighborhood plan area.

Source: Ord. 20080306-073; 20091217-053.

§ 25-1-804 APPLICATION TO AMEND NEIGHBORHOOD PLAN.

- (A) A pre-application meeting between the director's staff and an applicant is required before the applicant may submit an application to amend a neighborhood plan to the director. At the meeting:
- (1) the staff shall describe the application process to the applicant;
 - (2) the applicant shall describe the proposed neighborhood plan amendment to the staff;
 - (3) if the applicant is proposing a change to the future land use map, the applicant shall provide the staff with information regarding the proposed change, including the address, boundaries, acreage, current and proposed future land use map categories, and current and proposed uses; and
 - (4) if the applicant is proposing a text change, the applicant shall provide the proposed language and an explanation of the change.
- (B) For an application regarding an individual property, ~~except as provided in Subsection (C):~~
- (1) the director may accept an application to amend a neighborhood plan not earlier than one year after the adoption of the plan;
 - ~~(2) after the one year anniversary of a plan adoption, the director may accept an application to amend a plan recommendation relating to an individual property not more frequently than once every 12 months; and~~
 - ~~(3) an application may be filed only during the month established by the director under Section 25-1-811 (Map; Filing Dates), unless:~~
 - ~~(a) the application is submitted by a neighborhood plan contact team for the planning area in which the property is located; or~~
 - ~~(b) a neighborhood plan contact team for the planning area in which the property is located has given written approval of the application.~~
 - ~~(4) (2)~~ An applicant may not file an application for an amendment that is substantially the same as an application denied by council until one year after the council action denying the prior application.
- (C) ~~The director may accept an application regarding an individual property at a time other than as provided in Subsection (B) if the director determines that:~~
- ~~(1) prohibiting the filing would result in a hardship to the applicant, and the development proposed by the applicant will not adversely affect public health, safety, and welfare;~~
 - ~~(2) a clerical error regarding the designated use of the subject property exists on the future land use map of the neighborhood plan or in the text of the plan;~~
 - ~~(3) the person submitting the application has received a letter from the director of the appropriate City department stating that the project:~~
 - ~~(a) is not subject to current City environmental regulations, but is proposed to be developed under current City environmental regulations;~~
 - ~~(b) promotes the recruitment or retention of an employment center with 100 or more employees;~~
 - ~~(c) is a S.M.A.R.T. Housing-certified project in which at least 40 percent of the proposed units are reasonably priced as provided in Section 25-1-703(C) and (D) (Program Requirements); or~~
 - ~~(4) council has initiated the application.~~

~~(D) If an individual property owner in an area without a neighborhood plan contact team wishes to apply to amend the neighborhood plan at a time other than as provided in Subsection (B), the property owner may request Council initiate the application. If Council initiates the application, the property owner shall pay all fees associated with the application and the property owner shall be treated as the applicant.~~

~~(E) An applicant may appeal a decision of the director under Subsection (C)(1) to the Planning Commission.~~

~~(F)~~(C) For an area-wide or subdistrict-wide application:

- (1) the director may accept an application to amend a neighborhood plan not earlier than two years after the adoption of the plan;
- (2) the director may accept an application not earlier than two years after the most recent council action on the plan; and
- (3) an application initiated by council may be filed at any time.

~~(F)~~(D) The director may waive all or a portion of the fees, as set by the City's annual fee ordinance, for an amendment application initiated by a neighborhood plan contact team.

Source: Ord. 20080306-073; 20091217-053; Ord. No. 20170608-057 , Pt. 1, 6-8-17; Ord. No. 20200220-056 , Pt. 2, 3-2-20.

§ 25-1-805 NEIGHBORHOOD PLAN CONTACT TEAM.

- (A) The director shall initiate the formation of a neighborhood plan contact team.
- (B) The neighborhood plan contact team shall to the greatest extent practicable include at least one representative from each of the following groups within a neighborhood plan area:
 - (1) property owners;
 - (2) residential renters;
 - (3) business owners; and
 - (4) neighborhood organization members owning or renting property within the neighborhood plan area.
- (C) Representatives shall to the greatest extent possible be drawn from the group of persons involved in the development of the neighborhood plan.
- (D) The neighborhood plan contact team shall annually submit a list of its officers and members, including individual contact information and applicable membership category under Subsection (B), to the director.
- (E) The neighborhood plan contact team shall submit new bylaws or changes in existing bylaws to the director. The bylaws shall address roles and responsibilities, boundaries, membership, decision-making, meetings and meeting notification, officers and duties, amendments to the bylaws, finances, and conflicts of interest. The bylaws shall be consistent with the standardized bylaws template and instructions provided by the director.
- (F) Before the date on which the Planning Commission is scheduled to consider a proposed neighborhood plan amendment, the neighborhood plan contact team may submit a letter to the director stating its recommendation on the proposed amendment. The neighborhood plan contact team shall also identify any conflict of interest as defined in the bylaws of the neighborhood plan contact team.
- (G) Neighborhood plan contact teams shall have dispute resolution as follows:
 - (1) Filing complaints. A person who meets the membership requirements described under Subsection (B) and believes that the neighborhood plan contact team has violated the provisions of this section may file with the director a request to have the director investigate and mediate the complaint. Such

- complaints shall be in writing and shall identify the neighborhood plan contact team alleged to be violating the provisions of this section. All complaints must be filed within 45 days following the occurrence of an alleged violation.
- (2) **Investigation.** The director shall review with the charging party the allegations contained within the complaint and, if warranted based on the requirements of this chapter, shall conduct a prompt and full investigation of the matter stated in the complaint through interviews with the charging party, contact team officers, and through review of all available documentation. The director shall determine in writing whether dispute resolution is warranted within 14 days of receiving a complaint and shall render a written report identifying issues to be addressed through dispute resolution within 28 days of receiving the complaint.
 - (3) **Informal Dispute Resolution.** If after investigation it is determined that there is reasonable cause to believe that dispute resolution is warranted, the director shall endeavor to eliminate any such alleged violations by informal methods of conference, conciliation, and persuasion. All informal dispute resolution and determinations of the director must be completed within 30 days after the director provides the written report.
 - (4) **Formal Dispute Resolution.** If, after determining that there is reasonable cause to believe that dispute resolution is warranted, and the director is unable to secure from the respondent an acceptable conciliation agreement, the director shall present a report to the Planning Commission within 30 days of completing the informal dispute resolution. If after review of the report the Planning Commission agrees with the report of the director, the Planning Commission may recommend a more formal mediation or dispute resolution process. The Planning Commission shall set a deadline for the completion of formal mediation based on the complexity and circumstances of a specific case and shall identify a neutral third party to conduct the dispute resolution process.
 - (5) **Remedy.**
 - (a) In cases where the informal and formal dispute resolution processes initiated by the City are unable to secure from the respondent an acceptable conciliation agreement, the Planning Commission may recommend that the director and the City discontinue recognition of the neighborhood plan contact team under the provisions of this chapter until a conciliation agreement acceptable to the Planning Commission is reached.
 - (b) In the event the City discontinues recognition of a neighborhood plan contact team, special designation of the organization as a neighborhood plan contact team will be removed from the City of Austin Community Registry, the neighborhood plan contact team will no longer be granted the authority to initiate Neighborhood Plan amendments, and the neighborhood plan contact team will no longer have access to any special resources or authority through the City based on its status as a neighborhood plan contact team.
 - (c) If recognition of a neighborhood plan contact team is discontinued for more than six months, the director may take action to initiate a new neighborhood plan contact team for the planning area under the provisions of City Code Section 25-1-805(A)—(C). In the event that the director takes action to initiate a new neighborhood plan contact team, the initial officers of the new neighborhood plan contact team may not have served as officers of the previous neighborhood plan contact team at the time when recognition was discontinued.
 - (6) **Appeal.** Charging parties and respondents may appeal the determination of the director and of the Planning Commission under this subsection to the City Council. Actions that are appealable include the director's determination that dispute resolution is warranted; findings/determinations that come out of the informal dispute resolution process; and discontinuation of recognition of a neighborhood plan contact team.

Source: Ord. 20080306-073; 20091217-053; Ord. No. 20160128-084, Pts. 1, 2, 2-8-16 .

§ 25-1-806 NOTICE AND PUBLIC HEARING.

- (A) The director shall give notice of the filing of an application for a proposed neighborhood plan amendment under Section 25-1-133 (*Notice of Applications and Administrative Decisions*).
- (B) The director shall conduct a community meeting on a proposed neighborhood plan amendment prior to the date on which the Planning Commission is scheduled to consider the amendment. The director shall give notice of the meeting under Section 25-1-132(A) (*Notice of Public Hearing*).
- (C) The Planning Commission and the council shall each hold a public hearing on a proposed neighborhood plan amendment.
- (D) This subsection prescribes notice for a public hearing on a proposed neighborhood plan amendment regarding an individual property.
 - (1) For a hearing before the Planning Commission, the director shall give notice under Section 25-1-132(A) (*Notice Of Public Hearing*).
 - (2) For a hearing before council, the director shall give notice under Section 25-1-132(B)(2) (*Notice Of Public Hearing*).
 - (3) The applicant is responsible for the cost of notice, unless the applicant is a neighborhood plan contact team. In that event, the City is responsible for the cost of notice.
- (E) This subsection prescribes notice for a public hearing on a proposed neighborhood plan amendment regarding an area-wide or subdistrict-wide recommendation.
 - (1) The director shall give notice of a public hearing before the Planning Commission or council to:
 - (a) each notice owner of property located within the proposed amendment boundaries;
 - (b) each City of Austin utility account address within the proposed amendment boundaries; and
 - (c) each neighborhood plan contact team and registered neighborhood organization within the proposed amendment boundaries and within 500 feet of the proposed amendment boundaries.
 - (2) The City is responsible for the cost of notice.

Source: Ord. 20080306-073; 20091217-053.

§ 25-1-807 EXPIRATION OF APPLICATION.

- (A) A neighborhood plan amendment application expires if the director does not schedule the application for a public hearing:
 - (1) by the Planning Commission before the 181st day after the date of filing; or
 - (2) by the Planning Commission or council before the 181st day after the date on which the Planning Commission or council grants an indefinite postponement of a scheduled public hearing.
- (B) Except as provided in Subsection (D), a neighborhood plan amendment application expires if the council does not adopt an ordinance before the 361st day after council closes the public hearing on the application.
- (C) Except as provided in Subsection (D), a neighborhood plan amendment application initially submitted before the effective date of this section expires 180 days after the effective date of this section.

- (D) An applicant may file one request with the director and one request with council to extend an application that will expire under Subsection (B) or Subsection (C). The request must be in writing, be filed before the application expires, state good cause for the extension, and be for not more than 180 days.

Source: 20091217-053.

§ 25-1-808 LAND USE COMMISSION PUBLIC HEARING AND RECOMMENDATION.

- (A) The Land Use Commission shall hold a public hearing on a neighborhood plan amendment application not later than the 90th day after the date the application is filed.
- (B) The Land Use Commission shall make a recommendation to the council on a neighborhood plan amendment application not later than the 14th day after the Land Use Commission closes the public hearing on the application.
- (C) If the Land Use Commission does not adopt a recommendation on an application, the Director shall forward the application to council without a Land Use Commission recommendation.
- (D) If the Land Use Commission does not hold a public hearing in accordance with Subsection (A), the applicant may file a written request for a hearing as prescribed in Section 25-2-282(E).
- (E) The Director shall report the Land Use Commission's recommendation on each neighborhood plan amendment application to the council.

Source: 20091217-053.

§ 25-1-809 CITY COUNCIL HEARING AND RECOMMENDATION.

- (A) The council shall hold a public hearing on a neighborhood plan amendment application not later than the 40th day after the date of the Land Use Commission recommendation.
- (B) Section 25-2-283(C) shall apply to requests for postponement of the public hearing on a neighborhood plan amendment application.

Source: 20091217-053.

§ 25-1-810 RECOMMENDATION CRITERIA.

- (A) The director may not recommend approval of a neighborhood plan amendment unless the requirements of Subsections (B) and (C) are satisfied.
- (B) The applicant must demonstrate that:
- (1) the proposed amendment is appropriate because of a mapping or textual error or omission made when the original plan was adopted or during subsequent amendments;
 - (2) the denial of the proposed amendment would jeopardize public health, safety, or welfare;
 - (3) the proposed amendment is appropriate:
 - (a) because of a material change in circumstances since the adoption of the plan; and
 - (b) denial would result in a hardship to the applicant;
 - (4) the proposed project:

-
- (a) provides environmental protection that is superior to the protection that would otherwise be achieved under existing zoning and development regulations; or
 - (b) promotes the recruitment or retention of an employment center with 100 or more employees;
 - (5) the proposed amendment is consistent with the goals and objectives of the neighborhood plan; or
 - (6) the proposed amendment promotes additional S.M.A.R.T. Housing opportunities.
- (C) The applicant must demonstrate that:
- (1) the proposed amendment complies with applicable regulations and standards established by Title 25 (*Land Development*), the objectives of Chapter 25-2 (*Zoning*), and the purposes of the zoning district proposed for the subject property; and
 - (2) the proposed amendment is consistent with sound planning principles.

Source: Ord. 20080306-073; 20091217-053.

~~§ 25-1-811 MAP; FILING DATES.~~

~~The director shall establish a map designating the area of the City for which an application to amend a neighborhood plan must be submitted in February and the area for which an application must be submitted in July.~~

Source: Ord. 20080306-073; 20091217-053.

C20-2023-015 Eliminate NPA Filing Deadlines

City Council initiated Amendment to
LDC Article 16: Neighborhood Plan Amendments Ordinance
Planning Commission - August 8, 2023

Initiated by City Council Resolution No: **20230601-047.**

The Council initiated an amendment to City Code Title 25 (Land Development) to allow amendments to a future land use map (FLUM) to be filed at any time.

Article 16 currently establishes an open filing period for neighborhood plan amendment applications for planning areas on the east side of IH-35 to be filed in February and for neighborhood planning areas on the west side of IH-35 to be filed during July.

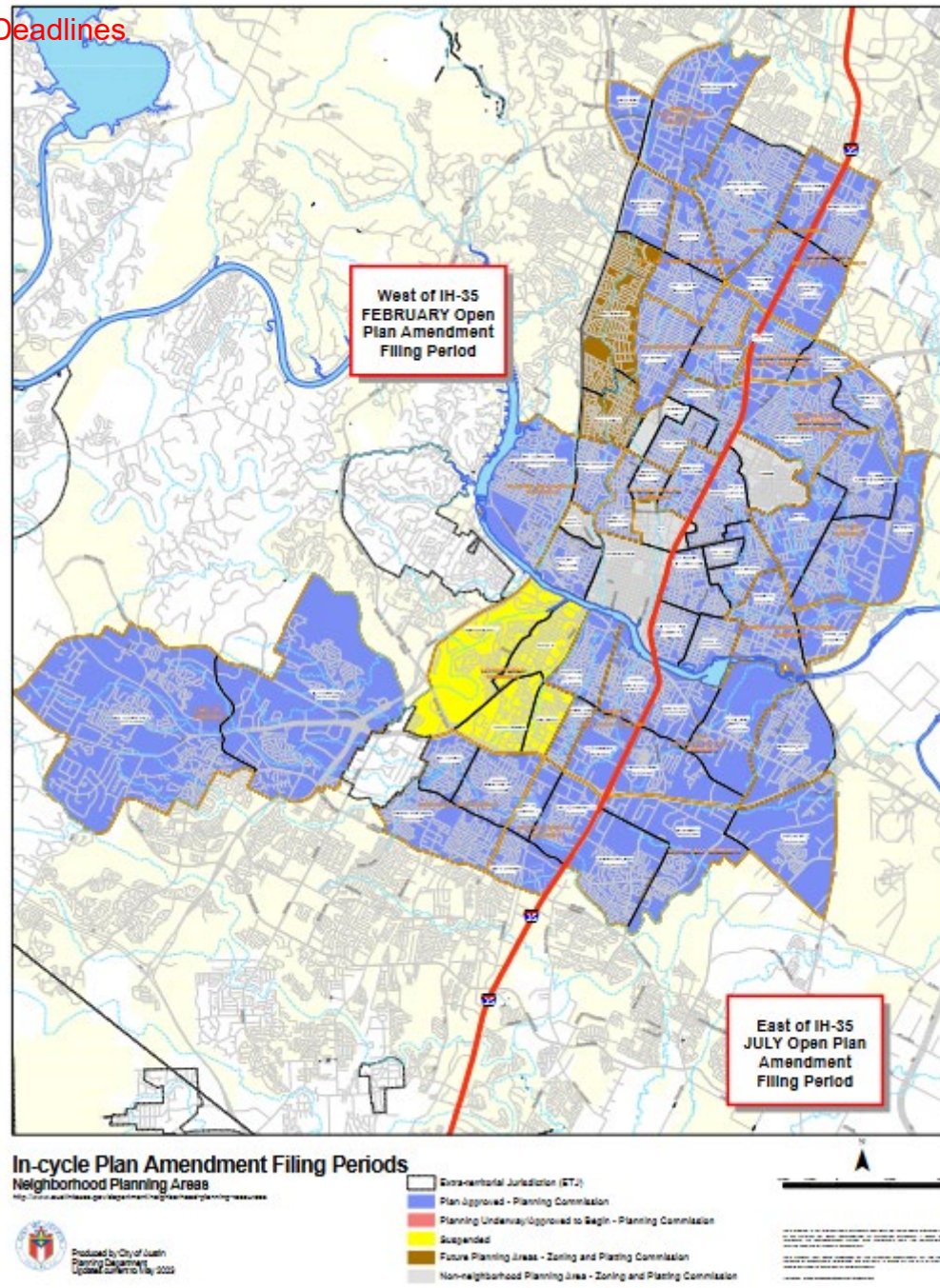
There are some exceptions to this filing restriction.

Current Ordinance Language:

§ 25-1-811 - MAP; FILING DATES.

The director shall establish a map designating the area of the City for which an application to amend a neighborhood plan must be submitted in February and the area for which an application must be submitted in July.

Source: Ord. 20080306-073; 20091217-053.



Next Steps:

- Planning Commission – August 8th
- City Council Conduct Public Hearing – August 31st